

Honeycutt for Congress

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September 20, 2010

2010 SEP 20 PM 2: 54

OFFICE OF GENERAL
COUNSEL

Christopher Hughey, Esq.
Acting General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Shana Broussard, Esq.

Re: MUR 6138

Dear Mr. Hughey:

This is the response of Honeycutt for Congress (HFC) to the complaint filed by David Scott for Congress through its campaign manager, Kwame Vidal, alleging violations of the Federal Election Campaign Act of 1971, as amended (FECA). On the basis of the considerations set forth below, there is no reason to believe that a violation of FECA has been committed by HFC.

Allegations of the Commission

The Commission alleges that Honeycutt for Congress and Scott Mackenzie, in his official capacity as treasurer, knowingly and willfully violated 2 U.S.C. §441d(a) because it appears that it authorized and paid for a communication that identified another entity paid for it. In addition, because HFC did not disclose the disbursement for the printed communication hereinafter referred to as "Corrupt" on its initial 2008 October Quarterly Report, the Commission found reason to believe that Honeycutt for Congress and Scott Mackenzie, violated 2 U.S.C. §434(b).

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Violation of 2 U.S.C. §441d(a) – Communication known as “Corrupt”

The complaint filed included a copy of a printed communication (“Corrupt”) and a copy of an invoice from 48HourPrint.com in the amount of \$1,385.75 for 25,000 double-sided 3.5”x 8.5” Rack Cards. 2 U.S.C. §441d(a) states that: *“Whenever a political committee makes a disbursement for the purpose of financing any communication...if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee...”*

This communication in question, contained a disclaimer stating that it was paid for by “Democrats for Good Government.com” and in fact it was not authorized by Honeycutt for Congress, the candidate or any of its agents. Mr. David Knox paid for the communication using a borrowed credit card belonging to Mr. Andrew Honeycutt, the committee Chairman and husband of the candidate. Unbeknownst to Mr. Honeycutt, the credit card he lent to Mr. Knox was not his personal credit card, but was in fact, the committee’s SunTrust Bank Debit Card¹.

Mr. Honeycutt has known Mr. Knox since 2003 (or there about) and has had a cordial relationship since that time. Mr. Knox and his company DK Intermedia were hired by HFC to provide update and maintenance services to the campaign website and to take photographs to be utilized on the website². The majority of those services were performed in the 2006 election cycle. In the early summer of 2008, the two had a conversation in the parking lot of the Divine Faith Church. At that time, Mr. Knox indicated that he could never be a Republican but did not

¹ Attachment 1 – Sun Trust Bank Statement

² Attachment 2 – DK Intermedia Invoices

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support Congressman David Scott and had a website called Democrats for Good Government. Mr. Knox did not reveal at that time, or any other, that he intended to create a printed handout now referred to as "Corrupt".

The existence of "Corrupt" was unknown to HFC, Mr. Honeycutt and the HFC treasurer, Scott Mackenzie until brought to light by MUR 6138 in December 2008. Mr. Knox repaid the funds utilized for "Corrupt" to Mr. Honeycutt who subsequently repaid that money³ to HFC with a deposit of \$1,385.75 on February 9, 2009.

The Federal Election Commission's Factual and Legal Analysis suggests that Donald W. Allen II and Dan P. Young; each of whom were paid by HFC for "consulting/canvassing" may have distributed "Corrupt". As previously stated however, HFC neither had knowledge nor possession of "Corrupt" thereby eliminating the possibility that it was disseminated by the committee.

HFC may be a pawn in a possible feud between Congressman Scott and David Knox. There was no knowing or willful violation of 2 U.S.C. §441d(a); in fact HFC and its agents were the last to know about "Corrupt" while Congressman Scott's office appears to have known about this almost as soon as the transaction with 48hourPrint.com took place. HFC never had a copy of "Corrupt" nor the print invoice until they were provided as attachments to MUR 6138.

CONCLUSION

The Commission alleges that Honeycutt for Congress and Scott Mackenzie, in his official capacity as treasurer, knowingly and willfully violated 2 U.S.C. §441d(a); an allegation HFC

³ Attachment 3 – Bank of America Statement

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vehemently denies. The committee did not authorize the production and printing of "Corrupt" and didn't become aware of it until after the election (December 2008), upon receipt of MUR 6138. Mr. Knox did borrow a credit/debit card from Mr. Honeycutt and used that card to pay for the printing of "Corrupt". The billing address on the invoice is that of the cardholder (generally a credit card requirement) and the home address of Andrew Honeycutt – the same "bill to" address as that used on the DK Intermedia invoices.

Although HFC "technically" paid for "Corrupt" when the campaign debit card was accidentally lent to Mr. Knox; HFC and Mr. Honeycutt did not authorize, nor did they have anything to do with the creation and distribution of "Corrupt".

Violation of 2 U.S.C. §434(b) – Contents of Report

The Commission finds reason to believe that HFC and its treasurer, Scott Mackenzie violated 2 U.S.C. §434(b) by failing to file the August 29, 2008 disbursement to 48 Hour Print in the amount of \$1,385.75 on its October 2008 Quarterly Report. The report was amended and that disbursement was included on that amended report filed on October 22, 2008; seven (7) days after the original due date. The implication is that the committee was attempting to hide the disbursement and only amended the report after the David Scott Campaign filed its initial complaint on October 21, 2008. The allegation does not square with reality.

On the evening of October 15, 2008 the committee was preparing to file the October Quarterly Disbursement Report. There were over 42,000 transactions that needed to be accounted for and the final step in the process was the importation of the direct mail contributions (39,295 transactions). When importing contributions to FECfile (the FEC's

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reporting software); the software pauses to ask whether possible duplicate donors should have their records merged. With a file as large as HFC's this will cause hundreds, if not a thousand or more stoppages. In other words, it can take several hours to import such a large file. Near the conclusion of this process, the software froze and the system needed to be rebooted.

After rebooting, HFC staff attempted to open its October Quarterly FECfile and received a "NoKey" error, prohibiting the file from being opened. With only a few hours left to meet the reporting deadline, the committee had no report to file. Whereas, HFC creates a computer file copy of each report after filing, the committee went back to its last copy and began rebuilding the 3rd Quarter file from scratch. There was not enough time to file a complete report, as the report filed on October 15th was only 47 pages and the amended report contained 1,275 pages.

During the week between the report due date and the filing of the amended report, the Electronic Filing Office was contacted and sent a copy of the "NoKey" file, however after reviewing it, HFC was told that the file was too large for them to fix. Had HFC not encountered the "NoKey" error the disbursement to 48 Hour Print would have been included on the initial filing.

CONCLUSION

HFC and its treasurer took all necessary steps to file a complete October 2008 Disclosure Report and expeditiously amended that report after the FECfile software failure prohibited the committee from filing a complete report on October 15th.

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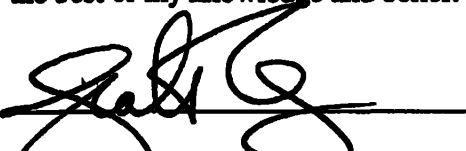
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SUMMARY


Honeycutt for Congress and its agents were never involved in the creation and/or distribution of "Corrupt" and never attempted to conceal the payment to 48 Hour Print. The committee requests that the Commission dismiss these allegations as having no basis in fact.

I do swear and affirm that the statements contained within this response are true and correct to the best of my knowledge and belief.


Scott B. Mackenzie, Treasurer
Honeycutt for Congress

Subscribed and sworn to before me, this 20th day of September, 20 10.

[Notary Seal:]


[signature of Notary]

MARVA J KIRBY
[typed name of Notary]

NOTARY PUBLIC

My commission expires: July 11th, 20 11.

MARVA J. KIRBY
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 11, 2011

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